

21

**Notice of Allowability**

Application No.

10/717,248

Examiner

Carl H. Layno

Applicant(s)

SABA, SAMIR F.

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Papers filed October 25, 2006.
2. ☒ The allowed claim(s) is/are 11-27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 10/25/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **DETAILED ACTION**

1. Acknowledgment is made of applicant's amendment and one-month extension of time, which were received by the Office on October 25, 2006.

2. Claims 1-10 are canceled. Claim 27 has been added. Claims 11-27 are active.

#### ***Information Disclosure Statement***

3. Acknowledgment is made of applicant's Information Disclosure Statement (PTO-1449), which was received by the Office on October 25, 2006.

#### ***Specification***

4. Applicant's abstract has been corrected by Examiner's amendment (below), hence, the Examiner is withdrawing the objection made against the abstract in the last Office action.

#### ***Claim Rejections - 35 USC § 112***

5. In view of applicant's modifications to the claims, the Examiner is withdrawing the 35 U.S.C 112 rejections, which were made against claims 16-18 and 26 in the last Office action.

#### ***Claim Rejections - 35 USC § 102***

Art Unit: 3766

6. Upon further reconsideration of applicant's claim amendments and claim cancellations, the Examiner is withdrawing the 35 U.S.C 102(e) rejection of Kupper (US 6,813,518), which was made against claims 1-10 and 19-21 in the last Office action.

***Examiner's Amendment***

7. The application has been amended as follows:

-Abstract, line 1, replace the words "The invention provides a method to discriminate" with the words "A method discriminates", and

-Abstract, lines 3-4, replace the words "Also disclosed is an implantable cardiac defibrillator that is capable of simultaneous atrioventricular anti-tachycardia pacing bursts and detecting" with the words "An implantable cardiac defibrillator provides simultaneous atrioventricular anti-tachycardia pacing bursts and detects".

***Allowable Subject Matter***

8. Claims 11-27 are allowed.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Saba (US 2006/0217769 A1) U.S Patent Application Publication describes a device similar to that of applicant's claimed device. Claims 11-26 of this publication, as originally filed, were the same as claims 11-26 of this application. However, after publication of the '769

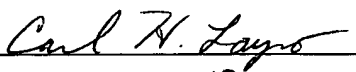
Art Unit: 3766

application, claims 11-26 of the '769 application were cancelled by a preliminary amendment. Consequently, the claim sets no longer conflict (i.e. recite overlapping claimed subject matter).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (571) 272-4949. The examiner can normally be reached on 9/4/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
\_\_\_\_\_  
CARL LAYNO  
PRIMARY EXAMINER

CHL  
12/7/2006